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Before the FEDERAL COMMUNICATIONS COMMISSION Washington, D.C. 20554

In the Matter of

Request by ALTS for Clarification of the Commission's Rules Regarding Reciprocal Compensation for Information Service Provider Traffic Docket No. CCB/CPD-97-30

COMMENTS OF BROOKS FIBER PROPERTIES, INC.

Brooks Fiber Properties, Inc. ("Brooks Fiber") supports the Request of the Association for Local Telecommunications Services ("ALTS") for expedited letter clarification, and urges the Commission to rule promptly on that request. As Brooks Fiber explains more fully below, the anticompetitive behavior of which ALTS complains threatens to impede local competition generally, and the efforts of Brooks Fiber to provide facilities-based competitive local service in particular, unless restrained by an unambiguous order from this Commission. Accordingly, the Commission should confirm that local calls placed to Internet service providers ("ISPs") and other enhanced service providers ("ESPs") require payment of reciprocal compensation under the Telecommunications Act of 1996². The Commission also should direct that incumbent local exchange carriers ("ILECs") that presently are withholding mutual compensation payments for local ISP traffic must pay those amounts immediately, and desist from withholding such payments in the future.

² Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 ("1996 Act").



Letter from Richard J. Metzger, ALTS to Regina M. Keeney, FCC (June 20, 1997) ("ALTS Petition").

Finally, the Commission should impose stringent penalties for the ILECs' willful violations of the Communications Act described here and in the ALTS petition.

I. Brooks Fiber Faces A Program of Massive Resistance to the FCC's Reciprocal Compensation Rules

Brooks Fiber has entered into binding interconnection agreements with a number of ILECs, including Southern New England Telephone Company and operating companies of all of the regional Bell holding companies except Bell Atlantic. Except for a few states in which bill-and-keep arrangements are in effect, each of those agreements requires the parties to pay reciprocal compensation for the transport and termination of local telecommunications traffic. None of those agreements contains any exception to its reciprocal compensation requirements for local calls placed to ISPs, and no ILEC, in the course of negotiating those agreements, suggested to Brooks Fiber that such an exception was intended.³ During negotiations with ILECs, Brooks was repeatedly assured that ISP traffic would be treated according to the FCC's then-pending order on local competition.

In spite of the unambiguous reciprocal compensation requirements of Brooks Fiber's interconnection agreements, a number of ILECs recently have announced that they will not compensate Brooks Fiber for local calls placed by the ILECs' customers to ISPs served by Brooks Fiber. (Brooks Fiber, on the other hand, consistently has recognized and fulfilled its mutual compensation obligations under its interconnection agreements with the ILECs.)

The ILECs' novel interpretation of their obligations was announced in letters sent to Brooks Fiber between April and July of this year. NYNEX announced its refusal to pay such compensation in a letter dated April 15, 1997. Southwestern Bell announced its refusal by

³Such an exception, of course, would be unenforceable under the Telecommunications Act of 1996, which creates a statutory obligation to establish reciprocal compensation arrangements. 47 U.S.C. §251(b)(5).

⁴Letter from Patrick A. Garzillo, NYNEX to Robert J. Shanahan, Brooks Fiber (April 15, 1997) (Attachment 1).

a letter dated June 9, 1997.⁵ Similar announcements were made by Nevada Bell on June 11,⁶ Pacific Bell on June 16,⁷ Southern New England Telephone on July 1.⁸ and Ameritech on July 3.⁹ The letters declaring these refusals to pay are similar in language, rationale and in the "authorities" cited in support of their position.

The ILECs' concerted refusal to compensate Brooks Fiber for terminating calls placed by ILEC customers to ISPs that are Brooks Fiber customers is depriving, and will continue to deprive, Brooks Fiber of substantial revenues. In Grand Rapids, Michigan, for example, Brooks Fiber recorded 16.9 million minutes of terminating traffic to ISPs served by Brooks Fiber in February, 1997 (the most recent month for which final figures are available), for which Ameritech incurred \$253,000 in reciprocal compensation charges payable to Brooks Fiber. Assuming, conservatively, that February's traffic volumes prove typical of monthly traffic in 1997 (traffic volumes in fact have increased substantially since February), Brooks Fiber will be entitled to receive \$3,036,000 in reciprocal compensation revenue for ISP traffic terminated by Brooks Fiber in 1997 in Grand Rapids alone.

Similarly, in Oklahoma City and Tulsa, during the period May 21-June 18, 1997, Brooks Fiber terminated a combined 20 million minutes of local traffic to ISPs, representing a substantial revenue stream in these cities as well.

⁵Letter from Larry B. Cooper, Southwestern Bell to Edward Cadieux, Brooks Fiber, (June 9, 1997) (Attachment 2).

⁶Letter from James A. Reitzel, Nevada Bell to Don Hamilton, Brooks Fiber, (June 11, 1997) (Attachment 3).

⁷Letter from P. Doug Garrett, Pacific Bell to Kathryn L. Thomas, Brooks Fiber, (June 16, 1997) (Attachment 4).

⁸Letter July 1, 1997, from Paul J. Brady, SNET, to Malcolm Brown, Brooks Fiber, (July 1, 1997) (Attachment 5).

⁹Letter from Thomas J. Lamb, Ameritech, to Martin Clift, Brooks Fiber, (July 3, 1997) (Attachment 6).

The full impact of the ILECs' conduct on Brooks Fiber will be much greater than the revenue losses just described for Grand Rapids, Oklahoma City and Tulsa. Brooks Fiber presently serves 44 cities, and its traffic in all of those cities (including ISP traffic) is expanding steadily. Obviously, the stakes in the present dispute are high. Funds wrongfully withheld from CLECs are funds that cannot be used for investment in new facilities and competitive services designed to offer new choices for consumers. In addition, loss of such revenues reduces the economic incentives and benefits for Brooks Fiber and other facilities-based CLECs to pursue opportunities in the local loop. None of these results is in the public interest, as articulated by Congress in the 1996 Act. The Commission must act promptly, therefore, to minimize the impact on Brooks Fiber and other CLECs of the ILECs' concerted, anticompetitive program. ¹⁰

II. The ILECs' Position Is Contrary to the 1996 Act and This Commission's Rules

The 1996 Act imposes on all telecommunications carriers the "duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications." The 1996 Act also provides that "a State commission shall not consider the terms and conditions for reciprocal compensation to be just and reasonable unless . . . such terms and conditions provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network

¹⁰The impetus for the ILECs' campaign is starkly anticompetitive. The CLECs have achieved considerable success in marketing their services to ISPs, with the result that substantially more traffic flows from ILEC customers to ISPs served by CLECs, than from CLEC customers to ISPs served by ILECs. When the ILECs discovered this asymmetry, they apparently concluded that refusal to pay reciprocal compensation for this traffic offered definite benefits. Most obviously, this policy would cost the ILECs proportionately far less revenue than it would cost the CLECs who would be left with fewer resources with which to compete in the local telecommunications service market. No less predictably, the CLECs would have little incentive to continue marketing to the one group of local customers for which they receive no reciprocal compensation. Accordingly, the ILECs eventually would recapture their monopoly of the growing market for local service to ISPs.

¹¹47 U.S.C. §251(b)(5).

The Commission has made it clear that for purposes of the reciprocal compensation obligation, local traffic is any traffic treated as local under current regulations. The *Local Competition Order* disavows any intention to change existing distinctions between local and interexchange service, and in fact "preserves the legal distinctions between charges for transport and termination of local traffic and interstate and intrastate charges for terminating long-distance traffic." Accordingly, where a communication is treated as interexchange under current regulations -- *i.e.*, where a carrier is required to pay access charges to the LECs that originate and terminate that communication -- that communication also is interexchange for purposes of reciprocal compensation. Where a communication is treated as local under current regulations -- *i.e.*, where it is tariffed as a local service and does not involve the payment of access charges -- that communication also is local for purposes of reciprocal compensation.

Calls placed to ISPs through seven-digit numbers clearly are local rather than interexchange. The state public utilities commissions classify these calls as local. ¹⁵ The

(Footnote continues on following page.)

¹²Id. §252(d)(2)(A).

¹³47 C.F.R. §§51.701(a) and 51.701(b)(1).

¹⁴Implementation of Local Competition Provisions in the Telecommunications Act of 1996, 11 FCC Rcd 15499 (1996) ("Local Competition Order") at \P 1033.

¹⁵ A number of state public utilities commissions expressly have found, in arbitration decisions under §252 of the 1996 Act and in other contexts, that calls to ISPs are local traffic requiring payment of reciprocal compensation. See, e.g., letter from Allan Bausback, State of New York Department of Public Service, to William Allen, New York Telephone Company (May 29, 1997) (stating that New York Telephone's refusal to pay reciprocal

ILECs tariff and charge for these calls as local, and submit cost studies and ARMIS reports that classify them as local. The ILECs categorize revenues and costs associated with local ISP traffic as local for purposes of jurisdictional separations. The FCC repeatedly has confirmed that these calls are local and not subject to payment of access charges. Only the ILECs, and only for the limited purpose of evading their obligations under the 1996 Act, purport to have discovered that local calls to ISPs are interexchange calls.

The weakness of the ILECs' position is underscored by the irrelevance of the authorities they cite in support of their position. The ILECs cite no case or regulation suggesting that a completed local call to an ISP facility is transformed into an interexchange call when the ISP connects the caller with a distant data facility. (In fact, this Commission expressly has found that there *is* no such transformation.)¹⁷ Instead, the ILECs cite two cases asserting the familiar principle that the FCC may regulate an intrastate facility or service to the extent that it is used to provide an interstate service.¹⁸ The ILECs then assert that these cases stand for the principle that "[i]t is the ultimate destination that must be used

⁽Footnote continued from previous page)

compensation for local ISP traffic "has not been approved by the Public Service Commission and is at odds with NYT's own treatment of this traffic as intrastate in its . . . charges to other customers.") See also Complaint of ACC National Telecom Corp. before the State of New York Public Service Commission (May 13, 1997), notes 4-8 at p. 5, citing arbitration decisions by the commissions of Arizona, Colorado, Minnesota, Oregon and Washington. No state commission has expressed agreement with the ILECs' strained interpretation of their reciprocal compensation obligations.

¹⁶See Amendment of Section 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry), 77 F.C.C. 2d 384 (1980), aff'd, Computer and Communications Industry Ass'n v. FCC, 693 F.2d 198 (D.C. Cir. 1982), cert. denied, 461 U.S. 938 (1983).

¹⁷*Id*.

¹⁸See Order Designating Issues for Investigation in CC Docket No. 88-180 (Apr. 22, 1988); NARUC v. FCC, 746 F.2d 1492 (1984). These cases are cited specifically in the ILEC letters appended as Attachments 3, 4, and 5 to these comments.

to jurisdictionalize a call." Unfortunately, the ILECs simply ignore the fact that the issue presented by reciprocal compensation under the 1996 Act -- *i.e.*, whether a call is local or interexchange -- is entirely separate from the question of distinguishing state from federal jurisdiction. The ILECs' misuse of these cases is simply frivolous.

In fact, if it were true, as the ILECs contend, that local calls to ISPs are actually interexchange calls, then several things would be true that demonstrably are not true today. Local calls to ISPs would be tariffed and billed as interexchange calls, and ISPs would pay access charges to LECs for handling those calls. The ILECs themselves would not continue to define local calls handled jointly with adjacent ILECs as "local" in their interconnection agreements with those companies. And finally, if local calls to ISPs were in fact interexchange calls, then local calls to the BOCs' ISP services would be unlawful, in-region interexchange services offered in defiance of the 1996 Act. None of these things is true today because the state commissions, the FCC and the ILECs themselves know that these calls are local and treat them accordingly.

CONCLUSION

The ILECs' refusal to pay reciprocal compensation for local calls to ISPs is a willful and anticompetitive misreading of the obligations imposed by the 1996 Act, and should be dealt with accordingly. The Commission should issue an unmistakable clarification of its *Local Competition Order*, as requested by ALTS, and also should foreclose further evasions

¹⁹See Attachment 2.

²⁰ALTS Petition at 7.

The legality of the BOCs' resale of interexchange service from their ISP platforms to Internet facilities in distant LATAs is, of course, a separate question. See Bell Atlantic Telephone Companies Offer of Comparably Efficient Interconnection to Providers of Internet Access Services, 11 FCC Rcd 6919 at ¶ 48 (1996).

by directing the ILECs to pay all reciprocal compensation amounts now payable and desist from withholding any part of those payments in the future. In view of the contemptuous behavior of the ILECs, the Commission also should impose the maximum sanctions available for the ILECs' discriminatory conduct and deliberate violations of law.²² As Chairman Hundt recently made clear, the ILECs' unlawful resistance to competition requires a deliberate and forceful response if the intent of Congress to bring new competition to this industry is to be fulfilled.²³

Respectfully submitted,

 $By:_{\underline{}}$

Charles H. Kennedy

Morrison & Foerster LLP

2000 Pennsylvania Avenue, N.W. Washington, D.C. 20006-1888

Telephone: (202) 887-1500

Attorneys for Brooks Fiber Properties,

Dated: July 17, 1997

²²See, e.g., 47 U.S.C. §§202 (c), 214 (d), 501.

²³ Steve Rosenbush, July 15, 1997, "Local Phone Competition Pace Assailed," USA Today p. 1A.

CERTIFICATE OF SERVICE

I, Kimberly E. Thomas, do hereby certify that the foregoing **COMMENTS OF BROOKS FIBER PROPERTIES, INC.** was hand delivered on this 17th day of July, 1997, to the following:

William F. Caton, Acting Secretary Federal Communications Commission 1919 M Street, N.W. - Room 222 Washington, D.C. 20554

Chairman Reed E. Hundt Federal Communications Commission 1919 M Street, N.W. - Room 814 Washington, D.C. 20554

Commissioner James H. Quello Federal Communications Commission 1919 M Street, N.W. - Room 802 Washington, D.C. 20554

Commissioner Susan Ness Federal Communications Commission 1919 M Street, N.W. - Room 832 Washington, D.C. 20554

Commissioner Rachelle B. Chong Federal Communications Commission 1919 M Street, N.W. - Room 844 Washington, D.C. 20554

ITS, Inc. 1231 20th Street, N.W. Washington, D.C. 20037 Larry Atlas
Associate Chief
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W. - Room 500
Washington, D.C. 20554

A. Richard Metzger
Deputy Chief
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W. - Room 500
Washington, D.C. 20554

Wanda Harris Common Carrier Bureau Federal Communications Commission 1919 M Street, N.W. - Room 518 Washington, D.C. 20554

Edward B. Krachmer Competitive Pricing Division Common Carrier Bureau Federal Communications Commission 1919 M Street, N.W. - Room 518 Washington, D.C. 20554

Richard J. Metzger, General Counsel Association of Local Telecommunications Services 1200 19th Street, N.W. Washington, D.C. 20036

Kimberly E. Thomas

NYNEX
222 Bloomingdale Road, White Plains, NY 10605
Tel 914 644 4758
Fax 914 681 0902

Patrick A. Garzillo
Managing Director, Local Carrier Markets



April 15, 1997

Rob Shanahan
Vice President, Northeast Region
Brooks Fiber Communications
One Old Stove Square, 5th Floor
Providence RI 02903

Dear Rob:

NYNEX has been receiving bills seeking reciprocal compensation for traffic that is being delivered to Internet Service Providers ("ISPs"). It is our view that such traffic is interstate in nature and not eligible for reciprocal compensation under the FCC's rules.

NYNEX is conducting a study to determine the number of minutes that were delivered to ISPs in February of this year. Once this study is completed, we will then ask that you issue us a credit for any reciprocal compensations bills that we have already paid. If our study shows that you delivered Internet traffic to us, we will issue an offsetting credit. In addition, we would like you to agree that neither of us will include Internet traffic in future bills for reciprocal compensation.

Please confirm your agreement by signing the enclosed copy of this letter. If we cannot reach an agreement, NYNEX will withhold payment of reciprocal compensation bills pending resolution of this issue. We hope that will not be necessary.

If you have any questions, I will be glad to discuss this matter further with you.

Sincerely.

PA Harnelle (15)

Agreed to:

Larry B. Cooper General Manager-Competitive Provider Account Team Southwestern Beil Teicphone One Bell Plaza Suite 9525 Dallas, Texas 75202 Phone 214 464-8145 Fax 214 464-1486



June 9, 1997

Mr. Edward Cadieux
Director, Regulatory Affairs - Central Region
Brooks Fiber Properties
425 Woods Mill Road South,
Suite 300
Town and Country, MO 63017

RE: Local Terminating Compensation for Delivery of Internet Service Provider Traffic

Dear Mr. Cadieux:

The purpose of this letter is to address local terminating compensation for the delivery of traffic destined for internet service providers (ISPs).

Originating access to an ISP is accomplished by the ISP's subscribers dialing a seven digit telephone number which local exchange carriers route through their switching networks to the ISP's premises. The ISP often uses special access circuits to transport this originating interexchange access traffic to a distant location.

The FCC has found, and the courts have agreed, that the jurisdiction of traffic is determined by the end-to-end nature of a cail. In paragraph 28 of the FCC's Order Designating Issues for Investigation in CC Docket No. 88-180, released April 22, 1988, the FCC disagreed with an argument by Southwestern Bell that 800 credit card traffic terminated at the IXC's credit card switch for jurisdictional purposes. The FCC stated that the switching performed at a credit card switch was an intermediate step in a single end-to-end communication. It is the ultimate destination that must be used to jurisdictionalize a call. In the NARUC vs. FCC decision issued October 26, 1984, (746 F.2d 1492), the court found that even the use of facilities that are wholly within an exchange may be jurisdictionally interstate as a result of the traffic that uses them.

The FCC provided ISPs, insofar as they are also enhanced service providers, with an access charge exemption that permits ISPs to use local exchange services in lieu of access services to receive originating interstate calls (and to terminate interstate calls to the extent this functionality is required). The use of local exchange services by an ISP does not change, in any way, the jurisdiction of the originating interstate traffic transported over these services to the ISPs premises. In other words, this originating interstate access traffic does not become "local traffic" simply because the FCC permits an ISP to use business local exchange service as its exchange access service.

Mr. Edward Cadieux June 9, 1997 Page 2 -

In paragraph 1034 of its Local Competition Order in CC Docket No. 96-98, released August 8, 1996, the FCC stated that the reciprocal compensation provisions of section 251(b)(5) would only apply to local traffic as defined by the state commission (paragraph 1035). Further, the FCC specifically ruled that reciprocal compensation did not apply to interstate of intrastate interexchange traffic. As such, Southwestern Bell/Pacific Bell will not request, nor will it pay, local terminating compensation for interstate or intrastate interexchange traffic. This includes calls passed to ISPs pursuant to local interconnection agreements since this traffic is jointly provided originating interexchange access. This decision satisfies the spirit and intent of the Telecommunications Act of 1996 and is consistent with the provisions of local interconnection agreements.

If you would like to discuss this matter further, I can be reached on 214-464-8145 or you may call your account manager, Sharon McGee, on 214-464-8147.

Sincerely,

œ:

Sharon McGee



A Pacific Telesis Company

Re:

June 11, 1997

|702| 333-4544 |FAX: (702) 333-2184 | J. A. (Jim) Reitzel

Don Hamilton
General Manager
Brooks Fiber Communications
200 S. Virginia Street, Suite 700
Reno, NV 89501-2416

1460 Vassar St., Room 200

Rono, Nevada 89520

Network Interconnection

Dear Mr. Hamilton:

The purpose of this letter is to address local terminating compensation for the delivery of traffic destined for Internet Service Providers (ISPs).

Local Terminating Compensation for Delivery of Internet Service Provider Traffic

Originating access to an ISP is accomplished by the ISP's subscribers dialing a seven digit telephone number which local exchange carriers route through their switching networks to the ISP's premises. The ISP often uses special access circuits to transport this originating interexchange access traffic to a distant location.

The FCC has found, and the courts have agreed, that the jurisdiction of traffic is determined by the end-to-end nature of a call. In paragraph 28 of the FCC's Order Designating Issues for Investigation in CC Docket No. 88-180, released April 22, 1988, the FCC disagreed with an argument by Southwestern Bell that 800 credit card traffic terminated at the IXC's credit card switch for jurisdictional purposes. The FCC stated that the switching performed at the credit card switch was an intermediate step in a single end-to-end communication. It is the ultimate destination that must be used to jurisdictionalize a call. In the NARUC vs. FCC decision issued October 26, 1984, (746 F.2d 1492), the court found that even the use of facilities that are wholly within an exchange may be jurisdictionally interstate as a result of the traffic that uses them.

The FCC provided ISPs, insofar as they are also enhanced service providers, with an access charge exemption that permits ISPs to use local exchange services in lieu of access services to receive originating interstate calls (and to terminate interstate calls to the extent this functionality is required). The use of local exchange services by an ISP does not change, in any way, the jurisdiction of the originating interstate traffic transported over these services to the ISP's premises. In other words, this originating interstate access traffic does not become "local traffic" simply because the FCC permits an ISP to use business local exchange service as its exchange access service.

In paragraph 1034 of its Local Competition Order in CC Docket No. 96-98, released August 8, 1996, the FCC stated that the reciprocal compensation provisions of section

251(b)(5) would only apply to local traffic as defined by the state commission (paragraph 1035). Further, the FCC specifically ruled that reciprocal compensation did not apply to interstate or intrastate interexchange traffic. As such, Nevada Bell will not request, nor will it psy, local terminating compensation of interstate or intrastate interexchange traffic. This includes calls passed to ISPs pursuant to local interconnection agreements since this traffic is jointly provided originating interexchange access. This approach satisfies the spirit and intent of the Telecommunications Act of 1996 and is consistent with the provisions of local interconnection agreements.

If you would like to discuss this matter further, I can be reached on (702) 333-4544.

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Sincerely.

James A. Reitzel

oo: David Nichols April Rodewald Jim Riley P. D. (Doug) Garrett
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370 Third Steet, Room 311 San Francisco, California 94107 115: S42 2010 Tivi 415: 545-516 Enter 116: 430-921



Date June 16, 1997

Ms. Kathryn L. Thomas Director of Regulatory Government Affairs Brooks Fiber 464 Oakmead Parkway Sunnyvale, CA 94086-4708

Re: Local Terminating Compensation for Delivery of Internet Service Provider Traffic

Dear Ms. Thomas:

The purpose of this letter is to address local terminating compensation for the delivery of traffic destined for Internet Service Providers (ISPs). Our fundamental concern is that we properly bill for this Internet traffic.

Originating access to an ISP is accomplished by the ISP's subscribers dialing a seven digit telephone number which local exchange carriers route through their switching networks to the ISP's premises. The ISP often uses special access circuits to transport this originating interexchange access traffic to a distant location.

The FCC has found, and the courts have agreed, that the jurisdiction of traffic is determined by the end-to-end nature of a call. In paragraph 28 of the FCC's Order Designating Issues for Investigation in CC Docket No. 88-180, released April 22, 1988, the FCC disagreed with an argument by Southwestern Bell that 800 credit card traffic terminated at the IXC's credit card switch for jurisdictional purposes. The FCC stated that the switching performed at the credit card switch was an intermediate step in a single end-to-end communication. It is the ultimate destination that must be used to jurisdictionalize a call. In the NARUC vs. FCC decision issued October 28, 1984, (746 F.2d 1492), the court found that even the use of facilities that are wholly within an exchange may be jurisdictionally interstate as a result of the traffic that uses them.

The FCC provided ISPs, insofar as they are also enhanced service providers, with an access charge exemption that permits ISPs to use local exchange services in lieu of access services to receive originating interstate calls (and to terminate interstate calls to the extent this functionality is required). The use of local exchange services by an ISP does not change, in any way, the jurisdiction of the originating interstate traffic transported over these services to the ISP's premises. In other words, this originating interstate access traffic does not become "local traffic" simply because the FCC permits an ISP to use business local exchange service as its exchange access service.

In paragraph 1034 of its Local Competition Order in CC Docket No. 96-98, released August 8, 1996, the FCC stated that the reciprocal compensation provisions of section 251(b)(5) would only apply to local traffic as defined by the state commission (paragraph 1035). Further, the FCC specifically ruled that reciprocal compensation did not apply to interstate or intrastate interexchange traffic. As such, we do not intend to request, nor do we intend to pay, local terminating compensation for interstate or intrastate interexchange traffic. This includes calls passed to ISPs pursuant to local interconnection agreements since this traffic is jointly provided originating interexchange access. This approach satisfies the spirit and intent of the Telecommunications Act of 1996 and is consistent with the provisions of local interconnection agreements.

If you would like to discuss this matter further, I can be reached on 415-542-3010.

Sincerely,

P. Doug Garrett

cc: M.E. Arbues, L. Cooper, M.D. Ard, L.M. Bauman, T.L. Cabrat



Southern New England Telephone 530 Preston Avenue Meriden, Connecticut 06450 Phone (203) 634-6327 Facsimile (203) 634-9331

July 1, 1997

Paul J. Brady Account Manager Network Marketing and Sales

Mr. Malcolm Brown
Director - Operations
Brooks Fiber Communications
100 Constitution Plaza
13th Floor
Hartford, CT 06103

Subject:

ISP Trunking Request

Dear Malcolm:

This letter is in reference to a preliminary Brooks Fiber request for end office and tandem trunking in support of Internet Service Provider (ISP) traffic in-bound to Brooks' Hartford switch (see attached letter).

As a means of preparing our network to handle the additional call volumes SNET expects your request to generate, SNET requested that Brooks provide some necessary traffic engineering data (see attached letter). To date we have not received the requested additional information.

Without appropriate network data and planning, the impact of ISP traffic upon our mutual networks, and SNET's Hartford area central offices, may be significant. Without Brooks' anticipated traffic volumes for its ISP applications, SNET cannot accurately estimate trunking and routing requirements to support ISP call volumes. This may create congestion and call delays (ISP and POTS) in each of our networks. Once Brooks changes its forecasts, SNET can apply a set of default parameters to estimate traffic distribution and network requirements to handle typical ISP call distribution (long hold times and evening busy hour).

Brooks has indicated that SNET should order and build the trunks necessary to deliver ISP traffic to the Brooks network in Hartford. SNET will make our best effort to provision the trunks that Brooks requires; however, SNET requests that the interconnection trunks required for ISP traffic be ordered by Brooks. In addition, Brooks should recognize that SNET will install the trunks as ordered by Brooks, and that SNET will bill Brooks for those trunks. Once the orders are received, we will advise Brooks of the availability of equipment/facilities and the projected completion date. Also, SNET

requests that Brooks capture and report on the ISP call data that originates from SNET's network and terminates to Brooks over these trunks. The call data will provide a history for adjustments, as appropriate.

The following explains SNET's position regarding ISP calls and ordering of interconnection trunks to support ISPs.

SNET is in support of the FCC pursuit of an NPRM addressing ISP traffic. The inclusion of ISP traffic, which is only one-way and not destined for local termination, is different from the traditional local exchange services intended for Mutual Compensation. SNET's position is that ISP traffic should be exempt from local Mutual Compensation and that the interconnection trunks should be ordered by the terminating network that is selling service to the ISP.

If you have questions or comments, please call me.

Sincerely,

cc:

C. Ostrander

R. Joyce

K. Carrigan, Esq.

D. Iglesias

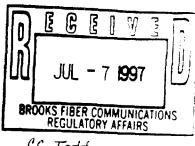
C. Lake



July 3, 1997

Mr. Martin Cliff Director of Regulatory Affairs Brooks Fiber Properties, Inc. 2855 Oak Industrial Drive NE Grand Rapids, MI 49506

Dear Mr. Cliff:



CC. Todd

It has come to our attention that Brooks Fiber Properties has been billing Ameritech for Reciprocal Compensation for non-Local Traffic in error. Although Ameritech is not yet able to identify the total amount of such non-Local Traffic, Ameritech believes that Brooks Fiber Properties has been terminating traffic destined for Internet Service Providers and has been incorrectly billing Ameritech Reciprocal Compensation for this traffic.

As such, we feel it important to remind you of the billing terms regarding Reciprocal Compensation as stated in the Interconnection Agreements between our respective companies. According to Section 5.7.1 of the Interconnection Agreements, Reciprocal Compensation only applies to Local Traffic terminated on the terminating party's network. In addition, Section 5.7.2 specifically provides that Reciprocal Compensation arrangements in the Interconnection Agreement[s] do not apply to Exchange Access Service. Traffic destined for Internet Service Providers is Exchange Access Traffic and therefore under our Interconnection Agreement, Reciprocal Compensation does not apply to this type of traffic. Instead, this traffic would be subject to the Meet-Point Billing Arrangements in Article VI of the Interconnection Agreements had the FCC not exempted such traffic from access charges.

In order to rectify any Reciprocal Compensation billing discrepancies, it is imperative that we immediately discuss a process for identifying all non-Local Traffic for which either company has incorrectly paid Reciprocal Compensation to the other company. Once the amount of incorrect payments is identified in accordance with our Interconnection Agreements (Section 27.5.1). Ameritech expects that each party will reimburse or credit the other party for any incorrectly paid Reciprocal Compensation.

Mr. Martin Cliff July 3, 1997 Page Two

Ameritech estimates that approximately 36.44% of Brooks Fiber Properties' Reciprocal Compensation billings for Michigan incorrectly include traffic destined for Internet Service Providers. On a going-forward basis, Ameritech will not pay this percentage of Brooks Fiber Properties' bills for Reciprocal Compensation in Michigan. Of course, this would be subject to further adjustments once Ameritech is able to determine the actual amounts that have been incorrectly billed. Similarly, Ameritech will show an interim credit of a determined percentage on Ameritech's Reciprocal Compensation billings to Brooks Fiber Properties to reflect any amounts that Ameritech may have incorrectly billed to Brooks Fiber Properties. Pursuant to Article XVIII of our Interconnection Agreements, Ameritech is willing to discuss appropriate resolution of any disputed amounts, including entering into an appropriate escrow agreement upon mutually-agreeable terms and conditions under which both Parties would pay these disputed amounts into an escrow account pending a determination of the specific amounts that have been paid in error by either Party.

We hope that this clarifies the billing procedures for Reciprocal Compensation. If you have any questions about this matter, please call Kay Heltsley, at 810-948-0375 or Sue Springsteen, at 248-424-0758.

Sincerely,

 ∞ :

Thomas J. Lamb (GA

Vice President, Finance

Thomas J. Lamb

President, Brooks Fiber Properties, Inc. Regional Vice-President, Brooks Fiber Properties, Inc.